In the High Court of Punjab and Haryana at Chandigarh

ITA No. 207 of 2007
Date of decision: September 6, 2007

K.C.Malhotra, Prop. M/s Malhotra Motors, Chandigarh

---Appellant

Vs.

CIT, Chandigarh

---Respondent

Coram: **HON'BLE MR. JUSTICE M.M.KUMAR**
HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

Present: Mr.S.K.Mukhi, Advocate,
for the appellant.

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M.M.KUMAR J.

The assessee has approached this court by filing the instant appeal under Section 260A of the Income Tax Act, 1961 (for brevity 'the Act') challenging the order dated 31.10.2006(A-1) passed by the Income Tax Appellate Tribunal, Chandigarh Bench 'B' (for brevity 'the Tribunal) in ITA No. 27/Chandi/2006 in respect of assessment year 2002-03. The assessee has claimed that the following substantial questions of law would arise for determination of this Court:-

a) "whether, on the facts and circumstances of the case, the ITAT was justified in confirming the action of authorities below by upholding the addition made on account of the impugned estimated profit of Rs. 2,61,532/- on the alleged shortage of stock of Rs. 41, 34, 153/- against which only recovery of Rs. 13,56,000/-

have been made during the year under appeal so that so there was still a loss recoverable to the extent of Rs. 27,78, 153/- so that so the question of any profit could not arise to have been added which finding is perverse and against the facts and provisions of law.

b) Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal was justified on facts and in law in confirming the action of the authorities below by erroneously treating the sale of wood from the trees grown and nurtured on the agricultural land owned by the appellant by treating it as non-agricultural income.

c) Whether on the facts and circumstances of the case, the findings of ITAT are perverse and against the evidences on record thus unsustainable in law.

d) Whether the ITAT has misdirected itself in being influenced by irrelevant factors and applying erroneous criteria while deciding both the issued against the appellant."

We have heard learned counsel at some length and find that the revenue has earlier filed ITA No. 214 of 2007 challenging the same order and claiming two questions of law. This Court has upheld the order dated 31.10.2006 (A-1) by dismissing the appeal filed by the revenue.

The claim of the assessee that numerous questions of law have arisen has failed to impress us. The first question claiming that loss was recoverable to the extent of Rs. 27,78,153/- does not emerge either from

the order of the Tribunal nor any such argument appears to have been addressed.

Likewise, question No. (b) is as to whether the sale of wood from the trees grown and nurtured on the agricultural land owned by the assessee was to be treated as non-agricultural income. This necessarily is a question of fact. The other questions are absolutely vague and do not fall within the meaning of substantial questions of law as envisaged by Section 260 A(1) of the Act. Moreover, order under challenge has already been upheld in the appeal filed by the revenue by dismissing ITA No. 214 of 2007 on 2.7.2007.

Thus, there is no merit in the appeal and the same is accordingly dismissed.

(M.M.KUMAR)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

September 6, 2007
paramjit